

2001 AUG 14 A 10: 56

Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of)	
)	
Amendment of Section 73.202(b),)	
Table of Allotments,)	
FM Broadcast Stations.)	
(Evant, Texas))	MM Docket No. 01-188
)	RM-10203
)	
(Winnsboro, Texas))	MM Docket No. 01-189✓
)	RM-10204
)	
(Comanche, Texas))	MM Docket No. 01-190
)	RM-10210
)	
(Clayton, Oklahoma))	MM Docket No. 01-191
)	RM-10211

NOTICE OF PROPOSED RULE MAKING

Adopted: August 1, 2001

Released: August 10, 2001

Comment Date: October 1, 2001

Reply Date: October 16, 2001

By the Chief, Allocations Branch:

1. Before the Commission for consideration is a multiple docket *Notice of Proposed Rule Making* setting forth separate proposals to amend the FM Table of Allotments, Section 73.202(b) of the Rules. Each petitioner has stated that it will apply for its requested channel, if allotted. We believe that each proposal warrants consideration because it complies with our technical requirements and would serve the public interest.

2. This is a multiple docket *Notice of Proposed Rule Making* issued in accordance with the Commission's *Public Notice* released October 2, 1998 (DA 98-1987). We are combining separate FM allotment proposals into a single *Notice of Proposed Rulemaking*. Each proposal has its own docket and rule making number and the Commission's Reference Center will maintain a separate file for each docket. As discussed in the *Public Notice*, this procedure will conserve Commission resources and expedite the processing of FM allotment petitions for rule making by avoiding duplicative actions. We request comments and/or counterproposals to the following proposals:

A. MM Docket No. 01-188; RM-10203

Petitioner: Charles Crawford
4553 Bordeaux Avenue
Dallas, Texas 75205

Proposal: Allot Channel 243A at Evant, Texas as the community's first local aural transmission service.

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Evant, Texas	--	243A

Coordinates: 31-28-56 NL and 98-09-19 WL

Additional Information: Petitioner states that Channels 241A and 243A, both at Evant, were withdrawn from MM Docket No. 99-358 by Evant Radio Company on or about October 10, 2000. *See Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Burnet, Texas),* MM Docket No. 99-358, DA 01-1595 (released July 6, 2001). The proposed allotment of Channel 243A at Evant requires a site restriction of 0.8 km (0.5 miles) north of Evant at the coordinates indicated above.

Petitioner states that Evant is an incorporated community with a population in excess of 450 persons.

FCC Contact: Deborah A. Dupont (202) 418-7072

B. MM Docket No. 01-189; RM-10204

Petitioner: Katherine Pyeatt
6655 Airtree Circle
Dallas, Texas 75214

Proposal: Allot Channel 263A at Winnsboro, Texas as the community's first competing FM transmission service.

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Winnsboro, Texas	284A	-- 263A, 284A

Coordinates: 32-56-40 NL and 95-12-27 WL

Additional Information: The allotment of Channel 263A at Bogata, Texas, was rescinded on April 6, 2001. *Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Mount Pleasant and Bogata, Texas)*, MM Docket No. 00-54, DA 01-879 (released April 6, 2001). The proposed allotment of Channel 263A at Winnsboro requires a site restriction of 7.9 km (4.9 miles) east of Winnsboro at the coordinates indicated above.

Petitioner states that Winnsboro is an incorporated community with a population in excess of 3,220 persons.

C. MM Docket No. 01-190; RM-10210

Petitioner: Jeraldine Anderson
1702 Cypress Drive
Irving, Texas 75061

Proposal: Allot Channel 280A at Comanche, Texas as the community's first competing FM transmission service.

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Comanche, Texas	232C2	280A, 232C2

Coordinates: 31-53-50 NL and 98-36-12 WL

Additional Information: The proposed allotment of Channel 280A at Comanche does not require a site restriction at the center city coordinates indicated above.

Comanche is an incorporated community in Comanche County. Petitioner states that Comanche has a population exceeding 4,600 persons.

FCC Contact: Deborah A. Dupont (202) 418-7072

D. MM Docket No. 01-191; RM-10211

Petitioner: Maurice Salsa
5615 Evergreen Valley Drive
Kingwood, Texas 77345

Proposal: Allot Channel 232C3 at Clayton, Oklahoma as the community's first local aural transmission service.

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Clayton, Oklahoma	--	232C3

Coordinates: 34-35-22 NL and 95-21-09 WL

Additional Information: The proposed allotment of Channel 232C3 at Clayton does not require a site restriction at the center city coordinates indicated above.

Clayton is an incorporated community in Pushmataha County. Petitioner states that Clayton has a population exceeding 636 persons.

FCC Contact: Deborah A. Dupont (202) 418-7072

3. Comments, reply comments, counterproposals and other pleadings filed in response to this multiple docket *Notice of Proposed Rule Making* should reference only the specific docket to which the filing pertains. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required in paragraph 2 of the Appendix before a channel will be allotted.

4. Interested parties may file comments on or before **October 1, 2001**, and reply comments on or before **October 16, 2001**, and are advised to read the Appendix for the proper procedures. Additionally, a copy of any filing should be served on the petitioner listed for the particular docket.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to a rule making proceeding to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. *See Certification that Section 603 and 604 of the Regulatory Flexibility Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 Fed.Reg. 11549 (February 9, 1981).

6. For further information concerning a proceeding listed above, contact the FCC contact listed for that proceeding. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no *ex parte* presentations are permitted from the time the Commission adopts a *Notice of Proposed Rule Making* until the proceeding has been decided and such decision in the applicable docket is no longer subject to reconsideration by the Commission or review by any court. An *ex parte* presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or any summary of any new information shall be served by the person making the presentation upon

the other parties to the proceeding in the particular docket unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in this proceeding.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

APPENDIX

1. Pursuant to authority contained in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM (TV) Table of Allotments, Section 73.202(b) (73.606(b)) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. Showings Required. Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. Cut-off Procedures. The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. Comments and Reply Comments; Service. Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420(a), (b) and (c) of the Commission's Rules.) Comments should be

filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554.

5. Number of Copies. In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. Public Inspection of Filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Reference Information Center (Room CY-A257), at its headquarters, 445 Twelfth Street, SW., Washington, D.C.